

# SENATE RECORD VOTE ANALYSIS

105th Congress  
1st Session

Vote No. 166

July 10, 1997, 11:07 am  
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## DEFENSE AUTHORIZATION/Tier 3 Computer Sales

**SUBJECT:** National Defense Authorization Act for fiscal year 1998 . . . S. 936. Grams substitute amendment No. 422 to the Cochran amendment No. 420.

### ACTION: AMENDMENT AGREED TO, 72-27

**SYNOPSIS:** As reported, S. 936, the National Defense Authorization Act for fiscal year 1998, will authorize a total of \$268.2 billion in budget authority for national defense programs (the President requested \$265.6 billion). In real terms, this bill will authorize \$3.3 billion less than was provided in fiscal year (FY) 1997.

The Cochran amendment would require companies to get a license from the Commerce Department before selling a computer in the 2,000 to 7,000 Millions of Theoretical Operations per Second (MTOPS) range to a purchaser in a Tier 3 country. (Currently, the United States divides countries into 4 tiers for purposes of computer export restrictions. Tier 3 countries include China and Russia. Exports of computers above the 7,000 MTOPS range to Tier 3 countries require advance approval. Exports of computers in the 2,000-7,000 MTOPS range do not require advance approval, but they may only go to civilian end-users. The companies selling the computers are responsible for determining if the prospective purchasers intend to use the computers for civilian or military purposes. The 4-Tier system was created administratively by the Clinton Administration in 1995 as a replacement for more restrictive computer export controls.)

The Grams substitute amendment to the Cochran amendment would require the General Accounting Office to conduct a study of the national security risks relating to the sale of computers in the 2,000-7,000 MTOPS range to end-users in Tier 3 countries. The study would also examine the extent to which other countries produced such computers for export, and the impact any such production had on United States exporters. Finally, the Grams amendment would require the Commerce Department to publish a list of military and nuclear end-users in Tier 3 countries.

NOTE: After the vote, the Cochran amendment, as amended, was adopted by voice vote.

(See other side)

YEAS (72)				NAYS (27)		NOT VOTING (1)	
Republican (34 or 62%)		Democrats (38 or 86%)		Republicans (21 or 38%)	Democrats (6 or 14%)	Republicans (0)	Democrats (1)
Allard	Gregg	Akaka	Kerrey	Abraham	Dodd		Mikulski- <sup>2</sup>
Ashcroft	Hagel	Baucus	Kerry	Burns	Durbin		
Bennett	Hatch	Biden	Kohl	Coats	Feingold		
Bond	Helms	Bingaman	Landrieu	Cochran	Ford		
Brownback	Hutchison	Boxer	Lautenberg	Collins	Glenn		
Campbell	Jeffords	Breaux	Leahy	Coverdell	Inouye		
Chafee	Kempthorne	Bryan	Levin	DeWine			
Craig	McCain	Bumpers	Lieberman	Hutchinson			
D'Amato	McConnell	Byrd	Moseley-Braun	Inhofe			
Domenici	Murkowski	Cleland	Moynihan	Kyl			
Enzi	Nickles	Conrad	Murray	Lott			
Faircloth	Roth	Daschle	Reed	Lugar			
Frist	Santorum	Dorgan	Reid	Mack			
Gorton	Shelby	Feinstein	Robb	Roberts			
Gramm	Smith, Gordon	Graham	Rockefeller	Sessions			
Grams	Thomas	Harkin	Sarbanes	Smith, Bob			
Grassley	Warner	Hollings	Torricelli	Snowe			
		Johnson	Wellstone	Specter			
		Kennedy	Wyden	Stevens			
				Thompson			
				Thurmond			
						<b>EXPLANATION OF ABSENCE:</b>	
						1—Official Business	
						2—Necessarily Absent	
						3—Illness	
						4—Other	
						<b>SYMBOLS:</b>	
						AY—Announced Yea	
						AN—Announced Nay	
						PY—Paired Yea	
						PN—Paired Nay	

Compiled and written by the staff of the Republican Policy Committee—Larry E. Craig, Chairman

**Those favoring** the amendment contended:

## Argument 1:

Our colleagues' intention is to put restrictions on the sale of supercomputers to potential adversaries, but neither the Grams amendment nor the underlying Cochran amendment have anything to do with supercomputers as they are defined today. Both amendments deal only with mid-level computers of the 2,000 to 7,000 MTOPS range. Many personal computers are approaching that range, and in a year or two it will be common to purchase desktop computers that have that level of computing ability. The MTOPS range of a computer comes from its computer chips. Dozens of chips are available on the world market with capacities of 650 MTOPS or more. All any user needs to do is put four such chips into a computer and he or she has broken into the mid-level range of computers that are restricted under Tier 3. The current classification for a supercomputer starts at 20,000 MTOPS (though the United States restricts licenses for anything over 7,000 MTOPS), but we believe that is a pretty low level considering that many supercomputers exceed 650,000 MTOPS and next year they will exceed 1 million MTOPS. Clearly a 20,000 MTOPS "supercomputer" is not in the same class as a 1 million MTOPS supercomputer. These numbers are all in constant flux because of the rapid advances in computing. We note for our colleagues that at the start of the Clinton Administration the official position of the United States Government was that supercomputers started at 195 MTOPS, which was so low it covered nearly every computer in America.

In 1995, the Clinton Administration created a classification system for computer sales. Under that system, purchasers in the 51 "Tier 3" countries, which include Russia, China, Israel, India, and Pakistan, may not buy mid-level computers for military purposes. It is the computer exporter's responsibility to determine if a prospective purchaser intends to use the computer for a military purpose. Since the creation of that classification system, there have been 1,400 sales, of which the United States knows of only 3 cases in which the computers have been diverted for military purposes. Those cases involve China and Russia, and the computers that have been diverted are being used in nuclear weapons and missiles programs. As bad as this diversion may sound, the United States' security has not been compromised. Both of those countries produce their own computers of much greater capabilities than 7,000 MTOPS. Even a total ban on United States exports of any computers could not have stopped either Russia or China from employing mid-range computers in their nuclear weapons and missile programs.

Still, though it is a simple matter for any country to either produce its one mid-level computer or to buy the component parts on the world market, there is no reason that the United States should make it any easier for countries to obtain them for military purposes. Therefore, we support the restrictions in the Grams amendment. This amendment would require the Commerce Department to publish a list of end-users in Tier 3 countries that are prohibited from purchasing mid-level computers. This list would make it much easier for companies to determine to whom they were permitted to sell. Second, it would require the General Accounting Office to study computer export control procedures to determine both the national security and trade implications.

The Grams amendment presents a much better approach to this issue than does the underlying Cochran amendment because of the trade implications of the Cochran amendment. That amendment would put a huge burden on computer exporters of mid-level computers by requiring them to obtain export licenses for each sale. According to the Clinton Administration, it takes an average of 107 days to obtain a license. In the computer industry 107 days is an eternity. Purchasers that need computers will not wait that long for delivery; instead, they will go to the United States' competitors. Our colleagues say that their process would work better because the Commerce Committee would better be better at weeding out unqualified buyers; we say that their process would eliminate all buyers.

We support efforts to stop proliferation of nuclear and missile technology, but those efforts, to succeed, are going to have to focus on more controllable parts of that technology than computers. The Cochran amendment is an overreaction to a minor problem. The Grams amendment presents a much more measured response. We urge our colleagues to accept this reasonable alternative.

## Argument 2:

We are not all pleased that China has misused U.S. computer technology, but we are not at all surprised. This reprehensible country uses slave labor, oppresses Tibet, has forced abortion and sterilization policies, sells missiles to dangerous regimes, and violates trade laws to run up its huge annual trade surplus with the United States. If our colleagues are upset with China, we encourage them to put pressure on China where it will have some effect--rescind most-favored-nation (MFN) trade status. We guarantee that action would get China's attention. Adopting the Cochran amendment, however, would only hurt U.S. computer manufacturers. We support the Grams amendment to prevent harm to U.S. computer manufacturers. In the future, we will support efforts to rescind China's MFN trading status.

**Those opposing** the amendment contended:

Lenin once remarked that a capitalist will sell you the rope you use to hang him. The Clinton Administration's current policy on the sale of supercomputers proves that point. In 1995 it replaced the strict conditions that had been in existence to that point with

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a new, 4-tier system. Under that system, no restrictions are placed on sales to Tier 1 countries (our closest allies), a few restrictions are placed on sales to Tier 2 countries, and no computer sales are allowed to Tier 4 countries (which include such countries as North Korea and Libya). For sales to Tier 3 countries, which include China and Russia, supercomputers may be sold that are in the 2,000 to 7,000 MTOPS range if the company selling those computers finds that the purchasers intend to use them for peaceful purposes.

The problem with this formulation is that the companies selling the computers are primarily concerned with making sales. We do not think that any company would deliberately sell a computer to a company in a Tier 3 country that was going to use it for military purposes, but how would it know if the company were misrepresenting itself? A computer manufacturer simply is not qualified to make that determination. The Commerce Department, using national intelligence means, is. It can keep track of which companies are legitimate and which are merely fronts for military organizations.

Predictably, sales have been made that the Commerce Department would never have approved had it known about them ahead of time. The Russian Chief of Atomic Energy recently boasted that his research system now has a supercomputer for Russian nuclear weapons that was acquired under this Tier 3 authority. The company selling the computer had no way of knowing that Russia was going to use it for nuclear weapons research. Similarly, several of the computers that have been sold to users in China have been put to work on nuclear weapons and missile research. At least one computer that was sold to a company in Hong Kong also ended up in China. The Commerce Department could have prevented all of these sales.

In the nearly 2 years this policy has been in effect, only 6.3 percent of all mid-level computer sales have gone to Tier 3 countries. For the most part, these are developing nations that do not need sophisticated computers. During hearings on this issue, Commerce Department officials testified that it only takes 30 days to issue licenses for those computers that now require export licenses. Therefore, with the Cochran amendment, all we are asking is that companies, for 6.3 percent of their exports of mid-level computers, wait for just 30 days to make sure that they are not compromising national security with their sales.

Our colleagues are not willing to impose this slight restriction on computer manufacturers, and have therefore proposed the Grams amendment. This amendment would not accomplish anything. It would order the GAO to conduct a study, but the GAO is already investigating this matter at our behest. It would order the Commerce Department to make a list of prohibited end users, but the Commerce Department has already agreed to make such a list, and any such list will be useless for detecting new front companies that are made to replace those that are put on the list. We know that Members have been under a great deal of pressure from computer lobbyists. We urge them to resist the pressure of this special interest industry. We urge them to put national security ahead of profits by voting against the Grams amendment.